

EXHIBIT 1

INTRODUCTION

Respondent Dwayne Bower was appointed to the governing board (the “Board”) of the Ojai Water Conservation District (the “District”), located in Ventura County, on December 6, 1994. Respondent Bower is currently serving his third consecutive four-year appointment to the Board. As a board member, Respondent was a designated employee of the District, as defined in section 82019, subdivision (c) of the Political Reform Act (the “Act”),¹ and in the District’s conflict of interest code.

As required by the Act and the District’s conflict of interest code, each designated employee of the District is required to file an annual statement of economic interests (an “SEI”) by April 1st of each year, disclosing his or her reportable investments, business positions, interests in real property, and income received during the twelve months of the preceding calendar year. In this matter, Respondent failed to timely file a 2002 annual statement of economic interests by the April 1, 2003 due date.

For the purposes of this stipulation, Respondent’s violation is stated as follows:

As a designated employee of the Ojai Water Conservation District, Respondent Dwayne Bower failed to timely file a 2002 annual statement of economic interests by April 1, 2003, in violation of section 87300.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (c), is to ensure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided.

In furtherance of this purpose, section 87300 requires every agency to adopt and promulgate a conflict of interest code. Under section 87302, subdivision (a), an agency’s conflict of interest code must specifically designate the employees of the agency who are required to file statements of economic interests, disclosing their reportable investments, business positions, interests in real property, and sources of income. Section 82019, subdivision (c), and section 87302, subdivision (a), further provide that the individuals who are to be designated in an agency’s conflict of interest code are the officers, employees, members, and consultants of the agency, whose position with the agency entails making, or participating in making, governmental

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

decisions that may have a reasonably foreseeable material financial effect on one or more of the individual's economic interests.

Under section 87302, subdivision (b), an agency's conflict of interest code must require every new designated employee to file an assuming office statement of economic interests within 30 days of assuming office. This subdivision also provides that an agency's conflict of interest code must require every designated employee of the agency to file an annual statement of economic interests, for each year that the employee remains in office, at a time specified in the agency's conflict of interest code, disclosing his or her reportable economic interests during the preceding calendar year.

Under section 87300, the requirements of an agency's conflict of interest code have the force of law, and any violation of those requirements is deemed a violation of the Act.

SUMMARY OF THE FACTS

Respondent Dwayne Bower was appointed to the governing board of the Ojai Water Conservation District on December 6, 1994. As a District board member, Respondent was a designated employee of the District, as defined in section 82019, and in the District's conflict of interest code.

The District's conflict of interest code requires a designated employee to file an annual SEI no later than April 1st, for each year that he or she serves as a designated employee of the District.

Therefore, Respondent was required to file an annual SEI for 2002 by April 1, 2003. Respondent filed a 2002 annual SEI on April 18, 2003, almost three weeks late. Commission Investigator Dan Schek of the Enforcement Division contacted Respondent regarding the 2002 annual SEI late filing on May 16, 2003. Respondent had no comment regarding his late filing.

By failing to file a 2002 annual SEI by April 1, 2003, Respondent violated section 87300.

ADDITIONAL INFORMATION

Respondent was delinquent in filing his SEIs for the calendar years 1997, 1998, and 2000. Yet, Respondent timely filed his SEIs for the calendar years 1999 and 2001.

Respondent was referred to the Commission in 2001 regarding his delinquent 2000 annual SEI. The Office of the County Clerk and Recorder for the County of Ventura sent Respondent three filing reminders, including a notice of potential prosecution, if the 2000 SEI was not filed. After being contacted by Commission Investigator Bonnie Swaim of the Enforcement Division, Respondent filed his delinquent 2000 annual SEI on July 16, 2001, over three months late.

CONCLUSION

This matter consists of one count of violating section 87300, which carries a maximum possible administrative penalty of Five Thousand Dollars (\$5,000).

Respondent has an established history of failing to file his statements of economic interests in a timely manner, as addressed above.

Under the Commission's SEI Expedited Procedures, adopted by the Commission in July 1999, the approved administrative penalty in a case such as this would typically result in an administrative penalty of \$600. However, due to Respondent's adverse filing history, it was not appropriate to apply the SEI Expedited Procedures in this matter. As such, a penalty higher than the penalty imposed under the Expedited Procedures is justified.

The typical stipulated administrative penalty for failing to file a statement of economic interests resolved outside of the SEI Expedited Procedures has historically ranged from \$1,500 to \$2,000 per statement. Respondent's delinquent filing history is an aggravating factor in this case, and therefore an administrative penalty approximating the higher end of the penalty range is appropriate.

The facts of this case therefore justify imposition of the agreed upon administrative penalty of Two Thousand Dollars (\$2,000).